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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,341	12/03/2003	Philip C. Georgeau	CHE20 P-304A	9027

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EXAMINER
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CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/726,341		GEORGEAU ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Chapman E. Jeanette		3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005 and 17 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/12/05</u>   | 6) <input type="checkbox"/> Other: _____                                    |

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The office action mailed 2/17/06 was never made final though the body of the action indicated so. The cover sheet however, indicated that the office action had not been made final. Again, the action was never made final according to Palm. Further, even in AF cases/applications, applicant's file amendments and/or arguments to a final rejection. No arguments or amendments were filed in the instant case. The current action is made final.

Claims 17-18 are objected to for the following reasons: the last line of claim 17 has no clear meaning. The foam insulation also lacks a positive antecedent basis. A clear meaning of claim 18 is also lacking because claim 18 depends on claim 17.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and claims 17-18, as far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Graves (4141187). Graves discloses a roof structure for covering a roof substrate comprising:

- A waterproof membrane 16 having a layer of fleece, pile or nap or carpet like material, see column 4, line 55 through column 5, line 20 and column 9, lines 1-35
- A moisture curing substantially nonvolatile polyether based adhesive which may be disposed on the nap side which would inherently flow within the nap material permitting bonding of the waterproof membrane to a roof substrate 11
- The roof deck is of wood
- Because Graves discloses applying his structure to many building structures some having a slope such as bridges and others not, the same may be considered as being applied to a low slope building structure
- Roof substrate 11/12

Regarding claim 17 and 18 see above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-15 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves in view of Van Wagoner (4719723). Van Wagoner discloses a sloping roof figure 3 supported at least in part by the walls 36/24 of the building 10 and a roof substrate 46. Van Wagoner also discloses a membrane 48 of EPDM rubber. It would have been obvious to applying the structure of Graves to a variety of roof structure and to use the recited membrane material to construct a thermally efficient protected membrane as taught by the secondary reference.

The thickness of the membrane and the fleece or matting have been considered a mater of choice. Further the measurement values for the bond strength and the viscosity of the adhesive. One of ordinary skill in the art would have appreciated making the membrane/fleece, the bond strength and the viscosity of any measurement values suitable to the intended use function and purpose of the roof structure. This recited thickness is certainly with in the scope of both cited references.

Graves discloses applying his roofing and surfacing material to many different building structures including. Fiberglass reinforced gypsum board is common in the art today among building materials wood and glass. One of ordinary skill in the art would

have appreciated applying the roofing system of any building structure in need of a water impermeable, durable, covering for sidewalks, patios, terraces, shopping malls, entrance ways, driveways, bathrooms, kitchens, swimming pool decks, recreation rooms, parking lots, bridges and roads.

Graves discloses many different types of polyether based adhesives. Graves does not specifically disclose the adhesive including a silyl-terminated polymer and an oxyalkylene polymer having at least one reactive silyl group at each end of polymer molecule. One of ordinary skill in the art would have appreciated using any adhesive with properties commensurate with the intended function and purpose of the roof structure.

Claim 16 is objected to as depending upon a rejected base claim but would be considered allowable if amended to include the base claim and any intervening claims.

Applicant's arguments are moot in view of the new ground of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Jeanette Chapman  
Primary Examiner